

No. 44556-5-II

THE COURT OF APPEALS FOR THE STATE OF WASHINGTON  
DIVISION II

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**STATE OF WASHINGTON,**

Respondent,

vs.

**SEAN MICHAEL KLAMM,**

Appellant.

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Appeal from the Superior Court of Washington for Lewis County

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**Respondent's Brief**

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## **TABLE OF CONTENTS**

|  |    |
|--|----|
| TABLE OF AUTHORITIES .....   | ii |
| I. ISSUES.....   | 1  |
| II. STATEMENT OF THE CASE .....  | 1  |
| III. ARGUMENT .....  | 9  |
| A. THE REMEDY FOR FAILURE TO ENTER FINDINGS<br>OF FACT AND CONCLUSIONS OF LAW IS REMAND<br>FOR ENTRY, NOT REVERSAL, FURTHERMORE,<br>WRITTEN FINDINGS OF FACT AND CONCLUSIONS<br>OF LAW HAVE BEEN ENTERED BY THE TRIAL<br>COURT ..... | 9  |
| B. THE BELATED WRITTEN FINDINGS ENTERED BY<br>THE TRIAL COURT ARE SUFFICIENT TO AFFIRM<br>KLAMN'S EXCEPTIONAL SENTENCE .....   | 11 |
| C. THE EXCEPTIONAL SENTENCE HANDED DOWN BY<br>THE TRIAL COURT WAS NOT EXCESSIVE .....  | 17 |
| IV. CONCLUSION.....  | 19 |

## **TABLE OF AUTHORITIES**

### **Washington Cases**

|   |            |
|---|------------|
| <i>State v. Ferguson</i> , 142 Wn.2d 631, 15 P.3d 1271 (2001).....  | 12         |
| <i>State v. Head</i> , 136 Wn.2d 619, 964 P.2d 1187 (1998) .....    | 10, 15     |
| <i>State v. Jackson</i> , 150 Wn.2d 251, 76 P.3d 217 (2003).....    | 13         |
| <i>State v. Knutz</i> , 161 Wn. App. 395, 253 P.3d 437 (2011) ...   | 12, 17, 18 |
| <i>State v. Lohr</i> , 164 Wn. App. 414, 263 P.3d 1287 (2011) ..... | 11         |
| <i>State v. Otis</i> , 151 Wn. App. 572, 213 P.3d 613 (2009) .....  | 10         |

### **Washington Statutes**

|                               |        |
|-------------------------------|--------|
| RCW 9.94A.507(3)(c)(ii) ..... | 9      |
| RCW 9.94A.535.....            | 12, 16 |
| RCW 9.94A.535(2)(c) .....     | 9, 15  |
| RCW 9.94A.535((3)(c) .....    | 15     |
| RCW 9.94A.535(3)(g) .....     | 8, 14  |
| RCW 9.94A.535(3)(h)(i) .....  | 8, 14  |
| RCW 9.94A.535(3)(n) .....     | 8, 14  |
| RCW 9.94A.537 .....           | 12     |
| RCW 9.94A.837 .....           | 9      |

### **Other Rules or Authorities**

|                  |   |
|------------------|---|
| CrR 6.1(d) ..... | 9 |
|------------------|---|

## **I. ISSUES**

- A. What is the proper remedy for late entry of the Findings of Fact and Conclusions of Law for the Bench Trial?
- B. Are the Findings of Fact and Conclusions of Law for the Exceptional Sentence, filed belatedly, sufficient to support Klamn's exceptional sentence?
- C. Is the exceptional sentence the trial judge imposed upon Klamn excessive?

## **II. STATEMENT OF THE CASE**

On March 22, 2012 the State filed an information charging Klamn with Count I: Child Molestation in the First Degree, Count II: Rape of a Child in the First Degree, and Counts III and IV: Rape of a Child in the Second Degree. CP 1-4. All counts carried an allegation that the crime was against a family or household member. CP 1-4. The State filed an amended information on May 21, 2012 charging Klamn with five counts of Child Molestation in the First Degree, four counts of Rape of a Child in the First Degree, one count of Child Molestation in the Second Degree, three counts of Rape of a Child in the Second Degree, and one count of Indecent Liberties with Forcible Compulsion. CP 9-25. All counts included the allegation that the crime was committed against a family or household member. CP 9-25. The State also alleged four aggravating factors on each count, (1) the defendant has

committed multiple current offenses and the defendant's high offender score results in some of the current offense going unpunished, (2) the offense was part of an ongoing pattern of sexual abuse of the same victim, under 18, and multiple instances over a prolonged period of time, (3) the offense involved domestic violence and was part of an ongoing pattern of psychological, physical or sexual abuse of the victim, manifested by multiple acts over a prolonged period of time, and (4) the defendant used his position of trust to facilitate the crimes. CP 9-25.

Klamn elected to have his case tried to the bench and waived jury trial. RP 3-4. The bench trial concluded on January 10, 2013 and the trial judge found Klamn guilty as charged in Counts I-XIV. RP 252-56; CP 3. The trial judge also found the aggravating factors and that the crimes were domestic violence. RP 252-58.

Sentencing occurred on February 19, 2013. RP 261. The State presented Findings of Fact and Conclusions of Law for the Bench Trial to the trial judge at the sentencing hearing. RP 262. The trial judge made changes to three of the findings and handed them back to the deputy prosecutor for her to make the changes. RP 263. Klamn's attorney noted he had reviewed the changes and they were minor. RP 263. The trial judge imposed an exceptional

sentence of 600 months based upon the aggravating factors the judge found at trial. RP 271-72. The trial judge also stated that if the Court of Appeals were to deem the exceptionally long sentence inappropriate, it was the trial court's intent to run all counts consecutive, resulting in a sentence of 598 months. RP 271-72. Written Findings of Fact and Conclusions of Law for an Exceptional Sentence (Appendix 2.4B of the Judgment and Sentence) was not entered at the time of sentencing or appended to the Judgment and Sentence.

The substantive facts of the trial can be found in the Findings of Fact and Conclusion of Law that were entered by the trial court as cited to below.

## **I. FINDINGS OF FACT**

- 1.1 That the victim, S.A.K., is a fourteen year old female born February 28, 1998.
- 1.2 That the Defendant is a thirty two year old male born November 1, 1980, and is the biological father of S.A.K.
- 1.3 That on March 15, 2012, Sgt. B. Hickey, Chehalis Police Department, was dispatched to a complaint of child rape. Sgt. Hickey made contact with Allison Kaech and her 14 year old daughter, S.A.K. (DOB: 02/28/1998).
- 1.4 Allison Kaech reported that her daughter recently disclosed that her father, Sean Michael Klamn (DOB: 11/01/1980), had been sexually molesting and raping her since she was 7 years old. Allison informed that

S.A.K. visits her dad on the weekends and stays with him after school until she can pick her up.

- 1.5 S.A.K. advised that her father had been raping and molesting her since she was approximately 7 years old. S.A.K. said this occurred at her father's current residence in Chehalis and her father's former residences in Pierce and Thurston counties. S.A.K. explained that when she was 7 years old her father started coming into her room at night and touching her inappropriately. S.A.K. stated that the inappropriate touching progressed into him forcing her to perform oral sex on him. S.A.K. stated her father started raping her when she was approximately 8 years old. S.A.K. explained that her father would come into her room and roll her over and have sex with her. S.A.K. advised that by sex she meant that he would put his penis in her vagina.
- 1.6 S.A.K. further advised that she would struggle and defendant would hold her down causing bruising on her inner thighs. S.A.K. informed that defendant would molest or rape her whenever she stayed at his house, which she stated was almost every weekend. S.A.K. explained that if she were to stay two nights on the weekend then defendant would usually rape her both nights.
- 1.7 S.A.K. advised the last incident occurred during the lunar eclipse, which was December 10, 2011. S.A.K. stated defendant came up to the top bunk bed where she was sleeping grabbed her legs forward and performed oral sex on her while holding her down. S.A.K. stated she struggled to get away, but defendant had pinned her down causing bruising to her legs.
- 1.8 S.A.K. explained she did not report the sexual assaults when she was younger because she didn't understand that it was wrong. She stated she "thought that was what dads did." S.A.K. further explained that she failed to disclose when she got older because she was embarrassed, ashamed, and was afraid no one would believe her.

- 1.9 S.A.K. stated she became increasingly concerned after she started menstruation because she was scared she would get pregnant. S.A.K. advised that in March 2012, she finally disclosed to B.W.S., a friend from school.
- 1.10 On March 21, 2012, Detective R. Silva, Chehalis Police Department, arranged for S.A.K. to come to the police station and conduct a recorded telephone conversation with defendant. During the recorded conversation, S.A.K. verbally confronted defendant about raping her. Defendant repeatedly apologized and stated he didn't feel good about raping her. S.A.K. asked defendant why he raped her, and he replied that he has been thinking about it and if he could do it over again he would. S.A.K. asked defendant why he raped her, and he stated he didn't have an answer for her, but that he was going to take some time to think about it so he could give her an answer. Defendant stated he knew what he did was wrong and he felt bad that it happened. During the conversation, defendant continually stated he was sorry.
- 1.11 On March 22, 2012, a second recorded telephone conversation took place between S.A.K. and the defendant. In this conversation, S.A.K. again confronted defendant about raping her "all those years." Defendant again did not deny the allegation, but rather stated he was sorry, he knew it was wrong and didn't have an answer for why he did what he did.
- 1.12 Detective Silva contacted defendant, who denied raping his daughter. However, when asked why his daughter would lie, defendant advised his daughter would not lie. When asked if his daughter had any reason to be vindictive, defendant replied that she is not a vindictive person.
- 1.13 Dr. Debra Hall, M.D., Supervising Physician Child Sexual Assault Clinic, St. Peter's Hospital, opined that it is common for young victims to delay reporting of sexual assault out of fear and embarrassment. Dr.

Hall stated that delayed reporting is especially common where the perpetrator is a family member.

- 1.14 Based on her demeanor and consistency, the Court finds S.A.K.'s testimony to be very credible. Furthermore, S.A.K. had no motive to lie, and even the defendant himself stated she would not lie.
- 1.15 Based upon responses given during the recorded telephone calls and his demeanor during testimony, the Court does not find defendant to be credible. The Court finds the responses given by defendant in the recorded phone calls inconsistent with someone wrongfully accused. The context of the phone calls is so morally repugnant to society that an innocent person would adamantly deny the accusation. Defendant never denied that he raped S.A.K. Furthermore, defendant had ample opportunity to commit the offenses given that S.A.K. was sleeping in his bedroom long past being an infant.
- 1.16 Based upon the foregoing Findings of Fact, the Court makes the following:

## **II. CONCLUSIONS OF LAW**

- 2.1 The court has jurisdiction over the Defendant and the subject matter of this action.
- 2.2 The defendant and S.A.K. were members of the same family or household as defined in RCW 10.99.020, and as alleged in Counts I, II, III, IV, V, VI, VII, VIII, IX, X, XI, XII, XIII, XIV of the Information.
- 2.3 Defendant is guilty beyond a reasonable doubt of the crime of Child Molestation in the First Degree-Domestic Violence as alleged in Count I of the Information.
- 2.4 Defendant is guilty beyond a reasonable doubt of the crime of Child Molestation in the First Degree-

Domestic Violence as alleged in Count II of the Information.

- 2.5 Defendant is guilty beyond a reasonable doubt of the crime of Rape of a Child in the First Degree-Domestic Violence as alleged in Count III of the Information.
- 2.6 Defendant is guilty beyond a reasonable doubt of the crime of Child Molestation in the First Degree-Domestic Violence as alleged in Count IV of the Information.
- 2.7 Defendant is guilty beyond a reasonable doubt of the crime of Rape of a Child in the First Degree-Domestic Violence as alleged in Count V of the Information.
- 2.8 Defendant is guilty beyond a reasonable doubt of the crime of Child Molestation in the First Degree-Domestic Violence as alleged in Count VI of the Information.
- 2.9 Defendant is guilty beyond a reasonable doubt of the crime of Rape of a Child in the First Degree-Domestic Violence as alleged in Count VII of the Information.
- 2.10 Defendant is guilty beyond a reasonable doubt of the crime of Child Molestation in the First Degree-Domestic Violence as alleged in Count VIII of the Information.
- 2.11 Defendant is guilty beyond a reasonable doubt of the crime of Rape of a Child in the First Degree-Domestic Violence as alleged in Count IX of the Information.
- 2.12 Defendant is guilty beyond a reasonable doubt of the crime of Child Molestation in the Second Degree-Domestic Violence as alleged in Count X of the Information.
- 2.13 Defendant is guilty beyond a reasonable doubt of the crime of Rape of a Child in the Second Degree-Domestic Violence as alleged in Count XI of the Information.

- 2.14 Defendant is guilty beyond a reasonable doubt of the crime of Child Molestation in the Second Degree-Domestic Violence as alleged in Count XII of the Information.
- 2.15 Defendant is guilty beyond a reasonable doubt of the crime of Rape of a Child in the Second Degree-Domestic Violence as alleged in Count XIII of the Information.
- 2.16 Defendant is guilty beyond a reasonable doubt of the crime of Indecent Liberties with Forcible Compulsion-Domestic Violence as alleged in Count XIV of the Information.
- 2.17 Furthermore, the State has proven beyond a reasonable doubt that the offense was part of an ongoing pattern of sexual abuse of the same victim under the age of eighteen years manifested by multiple incidents over a prolonged period of time, contrary to RCW 9.94A.535(3)(g), and as alleged in Count I, II, III, IV, V, VI, VII, VIII, IX, X, XI, XII, XIII and XIV of the Information.
- 2.18 Furthermore, the State has proven beyond a reasonable doubt that the current offense involved domestic violence and the offense was part of an ongoing pattern of sexual abuse of the victim manifested by multiple incidents over a prolonged period of time contrary to RCW 9.94A.535(3)(h)(i), and as alleged in Count I, II, III, IV, V, VI, VII, VIII, IX, X, XI, XII, XIII and XIV of the Information.
- 2.19 Furthermore, the State has proven beyond a reasonable doubt that the defendant used his position of trust to facilitate the commission of the current offense contrary to RCW 9.94A.535(3)(n), and as alleged in Count I, II, III, IV, V, VI, VII, VIII, IX, X, XI, XII, XIII and XIV of the Information.
- 2.20 Furthermore, the defendant has committed multiple current offenses and the defendant's high offender score results in some of the current offenses going

unpunished contrary to RCW 9.94A.535(2)(c), and as alleged in Count I, II, III, IV, V, VI, VII, VIII, IX, X, XI, XII, XIII and XIV of the Information.

2.21 Furthermore, as alleged in Count XIV of the Information, the victim was under the age of fifteen years at the time of the offense pursuant to 9.94A.837, which invokes the sentencing provisions of RCW 9.94A.507(3)(c)(ii), wherein the minimum term shall be either the maximum of the standard sentence range for the offense or twenty-five years, whichever is greater.

2.22 A judgment and sentence consistent with these findings shall enter.

CP 70-74. These findings were not entered until October 3, 2013, approximately eight and a half months after the sentencing hearing, and after Klamn filed his opening brief. CP 70-74.

The State will supplement the facts as necessary throughout its argument below.

### **III. ARGUMENT**

#### **A. THE REMEDY FOR FAILURE TO ENTER FINDINGS OF FACT AND CONCLUSIONS OF LAW IS REMAND FOR ENTRY, NOT REVERSAL, FURTHERMORE, WRITTEN FINDINGS OF FACT AND CONCLUSIONS OF LAW HAVE BEEN ENTERED BY THE TRIAL COURT.**

Klamn argues that because the trial court did not enter written findings, as required by CrR 6.1(d), the proper remedy is for this Court to reverse his conviction and remand for a new trial. Brief

of Appellant 16-18. Klamn cites to *State v. Head*, 136 Wn.2d 619, 964 P.2d 1187 (1998) and *State v. Otis*, 151 Wn. App. 572, 213 P.3d 613 (2009) to support his conclusion. Brief of Appellant 17-18. Klamn's argument lies in his alleged inability to secure effective appellate review absent findings.

The reason written findings and fact and conclusions of law are entered is they facilitate appellate review as they enable an appellant to focus on the issues contained within the record and whether the findings are actually supported by the record. *Head*, 136 Wn.2d at 622-23. *Head* clearly holds that reversal and remand for a new trial would only be an appropriate remedy if a defendant can make a showing that the lack of findings and conclusions actually prejudiced him or her. *Id.* at 624-25.<sup>1</sup>

Findings of fact and conclusions of law have now been entered in this case. CP 70-74. Although provided an opportunity to do so, Klamn has not challenged the written findings and conclusions nor has he filed an amended opening brief. See Ruling

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<sup>1</sup> The State acknowledges *Otis* states the appropriate remedy for the lack of findings and conclusions is reversal and remand for a new trial in *Otis*' case. *Otis*, 151 Wn. App. at 576. *Otis* cites to *Head* at 620-21 for its authority for this holding. *Head* does not state the reversal and remand for a new trial is the appropriate remedy, but that remand for entry of the findings and conclusions is the proper remedy. *Head* at 624-25. Further *Head* at 620-21 is not the holding of the case but the synopsis of the argument, statement that remand was required, and also includes the fact portion of the case.

by Commissioner Schmidt dated September 23, 2013.<sup>2</sup> The findings therefore are verities on appeal. *State v. Lohr*, 164 Wn. App. 414, 418, 263 P.3d 1287 (2011). These findings amply support the trial court's legal conclusions and verdicts of guilty on all counts. CP 70-74.

Klamn has not and is unable to show any prejudice from the late entry of the findings and conclusions. Klamn's convictions must, therefore, be affirmed.

**B. THE BELATED WRITTEN FINDINGS ENTERED BY THE TRIAL COURT ARE SUFFICIENT TO AFFIRM KLAMN'S EXCEPTIONAL SENTENCE .**

Klamn argues absent written findings of fact for the exceptional sentence there is not a sufficient record for appellate review. Brief of Appellant 18-20. Klamn argues the trial court's failure to enter written findings in support of the exceptional sentence warrants resentencing because it is not clear the trial court would have given the same sentence if any one of the aggravating factors were invalid. Brief of Appellant 18-21. The trial court's oral ruling was adequate as it referenced the aggravating factors it found after the bench trial. RP 271. Further, while belated, the trial court did enter the proper Findings of Fact and Conclusions

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<sup>2</sup> The State contacted Klamn's appellate attorney and inquired if an amended brief was going to be filed and was told no.

of Law for the Exceptional Sentence. Supp. CP FFCL Exceptional; Supp. CP Declaration.<sup>3</sup>

When a trial court imposes a sentence outside the standard sentence range it must find compelling and substantial reasons justifying the exceptional sentence. RCW 9.94A.535. The trial court must enter written findings of fact and conclusions of law setting forth its reason for imposing the exceptional sentence. RCW 9.94A.537. Once a trial court has made the required determination, “the sentence court may exercise its discretion to determine the length of an appropriate exceptional sentence.” *State v. Knutz*, 161 Wn. App. 395, 410, 253 P.3d 437 (2011).

If a trial court relies upon reasons that are not substantial and compelling for the imposition of an exceptional sentence, it exceeds its authority and the matter is required to be remanded for resentencing within the standard range. *State v. Ferguson*, 142 Wn.2d 631, 649, 15 P.3d 1271 (2001). If the trial court indicates it would have given the same sentence for any of the aggravating factors, a finding that one of the factors is invalid would not require

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<sup>3</sup> The State will be filing a second supplemental designation of Clerk’s papers to include the Findings of Fact and Conclusions of Law for the Exceptional Sentence and for a Declaration by Richard Brosey.

the court to remand for resentencing. *State v. Jackson*, 150 Wn.2d 251, 276, 76 P.3d 217 (2003).

The trial judge stated at the sentencing hearing that the evidence presented during the trial was one of the most outrageous stories he had heard in his 19 years as a judicial officer. RP 271. The judge stated, "I can't for the life of me understand any father doing what Mr. Klamn did to this victim, especially, over such a protracted period of time." RP 271. The trial judge next proclaimed the following judgment:

It would be the judgment of the Court with respect to Counts I through IV on each one of those the maximum is life under the statute. It will be the judgment of the Court Mr. Klamn will serve 198 months. On Counts VI -- strike that, that's I through V, 198 months.

On Counts VI through VII, 116 months.

On Counts VIII through IX, **keeping in mind the aggravating factors that the Court found**, 600 months.

On Counts XII and XIII, 600 months.

On Count XIV, 116 months.

The time is concurrent on all counts, so lest there be any misunderstanding, the time imposed here is 50 years, and lest there be any misunderstanding about it, with respect to the issue of the 600 months that was imposed by the Court on Counts VIII through XI and XII through XIII, in the event that the Court of Appeals should for whatever reason deem it

inappropriate that the Court imposed an exceptional sentence of 600 months on those counts, again, giving keeping in mind that Mr. Klamn's supervision is for the rest of his natural life, then, it's the intention of the Court that in such an event those counts would run consecutively, not concurrently. That would result in 598 months, if I'm not mistaken, adding the two together, plus the other additional time that was imposed.

Yes. 598 months, so any way you look at it as far as the Court is concerned 50 years is an appropriate period of time.

RP 271-72 (emphasis added). The judge incorporated by reference the aggravating factors he found after the conclusion of the bench trial. RP 271.

After the conclusion of the bench trial the trial judge found four aggravating factors: (1) the offense was part of an ongoing pattern of sexual abuse of the same victim under the age of 18 years manifested by multiple incidents over a prolonged period of time, *see* RCW 9.94A.535(3)(g); (2) the current offense involved domestic violence and the offense was part of an ongoing pattern of sexual abuse of the victim manifested by multiple incidents over a prolonged period of time, *see* RCW 9.94A.535(3)(h)(i); (3) the defendant used his position of trust to facilitate the commission of the current offense, *see* RCW 9.94A.535(3)(n); and (4) the defendant has committed multiple current offenses and the

defendant's high offender score results in some of the current offenses going unpunished, *see* RCW 9.94A.535(2)(c). CP 73-74.

Klamn also argues in his briefing,

Moreover, there is no mention of any facts to support the imposition of an aggravating sentence based on RCW 9.94A.535((3)(c) that the defendant knew that victim of the current offense was pregnant", or (3)(c)(ii) which does not exists as an aggravating factor.

Brief of Appellant 20. Klamn's contention is correct. It is correct because the State never alleged an aggravating factor based upon RCW 9.94A.535(3)(c). Therefore, the State is unsure why Klamn is arguing the judge failed to mention facts in support of an aggravating factor the trial judge never found because the aggravator was never alleged.

The trial judge drafted Findings of Fact and Conclusions of Law for the Exceptional Sentence. Supp. CP FFCL. The findings and conclusions were drafted and filed after Klamn's opening brief was filed. Supp. CP FFLC. The trial judge drafted the findings and conclusions alone, without aid or input by the deputy prosecutor, nor has the trial judge read Klamn's briefing in this matter. Supp. CP Declaration. The most common argument for prejudice is that the belated drafting and entry of findings were "tailored to meet issues raised on appeal." *Head*, 136 Wn.2d at 624-25. That is

clearly not the case here as the findings were inadvertently left out of the judgment and sentence and drafted with no knowledge of any pending appellate issues.

The Findings of Fact and Conclusions of Law for Exceptional Sentence list the four aggravating factors found by the trial court after Klamn's bench trial. Supp. CP FFCL. The findings state that these aggravating factors justify an exceptional sentence above the standard range. Supp. CP FFCL. The trial judge also found that any of the aggravating factors taken together, or individually, constitute sufficient cause to impose the exceptional sentence and the judge would have imposed the sentence if only one of the grounds were valid. Supp. CP FFCL. The conclusions of law drafted by the trial judge states that "[t]here are substantial and compelling reasons to impose an exceptional sentence pursuant to RCW 9.94A.535. Supp. CP FFCL.<sup>4</sup>

The oral findings made it clear that the trial judge was basing his exceptional sentence on the aggravating factors he found at the conclusion of the bench trial. RP 250-58, 271; CP 73-74. The written findings entered later memorialize the trial judge's ruling and

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<sup>4</sup> The State acknowledges that Klamn did not have the benefit of the trial judge's written findings prior to filing his opening brief. The State has no objection to Klamn being able to file supplemental briefing in regards to the exceptional sentence and aggravating factors.

intentions regarding the exceptional sentence he gave Klamn. Supp. CP FFCL. The trial judge had substantial and compelling reasons to impose the exceptional sentence and he did enter findings of fact and conclusions of law, admittedly belated, which set forth those reasons. The trial judge appropriately exercised his discretion when he sentenced Klamn to an exceptional sentence above the standard range. RP 270-72; CP 46-62. Klamn's sentence should be affirmed.

**C. THE EXCEPTIONAL SENTENCE HANDED DOWN BY THE TRIAL COURT WAS NOT EXCESSIVE.**

Klamn argues his sentence is clearly excessive because the trial judge's sentence is three times the standard range sentence, the trial judge did not state that the aggravating factors outweighed any leniency afforded by the law, and the trial judge did not explain his reasons for the exceptional sentence. Brief of Appellant 22-23. Klamn's assessment of the trial judge's sentence is incorrect.

A trial court's exceptional sentence is reviewed under an abuse of discretion standard for a determination if the sentence was clearly excessive. *Kuntz*, 161 Wn. App. at 410. A sentence is clearly excessive when it is clearly unreasonable. *Id.* A sentence is clearly unreasonable when the sentence is "exercised on untenable

grounds or for untenable reasons, or an action that no reasonable person would have taken.” *Id.* (citations omitted).

The trial court stated that what the victim went through was one of the most outrageous cases he had seen in his 19 years as a judicial officer. RP 270-71. The trial judge remarked on the incomprehensibility of the acts committed by Klamn. RP 271. The trial judge found, when he convicted Klamn on all counts, that Klamn had continually and systematically sexually abused his biological daughter over the course of six years. RP 251-58; CP 70-74. Klamn began molesting his daughter when she was seven years old. RP 252; CP 71-72. Klamn began raping his daughter when she was eight years old. RP 253; CP 71-73. This abuse continued until she was 13 years old. RP 251-58; CP 71-74. What possible leniency could the law provide for such acts?

The judge incorporated by reference in his oral opinion the aggravating factors in support of his sentence. RP 271. The trial judge clearly considered the length of the sentence and believed 50 years was the appropriate amount of time Klamn should be confined to prison. RP 271-72. The trial judge made it clear that if a 600 months sentence on one count would be deemed excessive, then all counts should be sentenced at high end of the standard

range and run consecutive because a sentence of approximately 50 years was appropriate for the horrific crimes Klamn perpetrated for years against his own child. RP 271-72. Klamn's sentence is not excessive and this Court should affirm it.

#### **V. CONCLUSION**

The Findings of Fact from the bench trial support Klamn's convictions. The exceptional sentence Klamn received was supported by the aggravating factors found by the trial judge. Further, the prolonged systematic sexual abuse of the victim in this matter justifies the exceptional sentence imposed by the trial judge. This Court should affirm Klamn's conviction and sentence.

RESPECTFULLY submitted this 20<sup>th</sup> day of December, 2013.

JONATHAN L. MEYER  
Lewis County Prosecuting Attorney



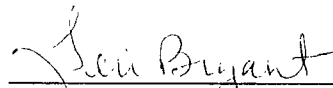
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**COURT OF APPEALS FOR THE STATE OF WASHINGTON  
DIVISION II**

|                      |   |                |
|----------------------|---|----------------|
| STATE OF WASHINGTON, | ) | NO. 44556-5-II |
| Respondent,          | ) |                |
| vs.                  | ) | DECLARATION OF |
|                      | ) | EMAILING       |
| SEAN MICHAEL KLAMN,  | ) |                |
| Appellant.           | ) |                |
| _____                | ) |                |

Ms. Teri Bryant, paralegal for Sara I. Beigh, Senior Deputy Prosecuting Attorney, declares under penalty of perjury under the laws of the State of Washington that the following is true and correct: On December 20, 2013, the appellant was served with a copy of the **Respondent's Brief** by emailing to the attorney for Appellant at the following email address:  
Liseellnerlaw@comcast.net.

DATED this 20 day of December, 2013, at Chehalis, Washington.



\_\_\_\_\_  
Teri Bryant, Paralegal  
Lewis County Prosecuting Attorney Office

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**December 20, 2013 - 10:10 AM**  
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Court of Appeals Case Number: 44556-5

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